

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1100-2007 (O&M)

STATE OF HARYANA AND ORS.

..Appellants

Versus

CHANDER BHAN AND ANR.

..Respondents

Reserved on: 28.04.2026

Pronounced on : 29.04.2026

Uploaded on : 01.05.2026

Whether only the operative part of the judgment is pronounced?

NO

Whether full judgment is pronounced?

YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Harish Nain, AAG, Haryana
for the appellant.

Mr. Tara Chand Dhanwal, Advocate
for respondent No.1.

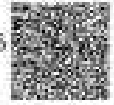
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SUDEEPTI SHARMA, J.

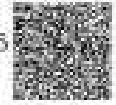
1. The present regular second appeal is preferred against judgment and decree dated 06.10.2004 passed by learned Civil Judge (Senior Division), Narnaul and judgment and decree dated 02.12.2006 passed by learned Additional District Judge, Narnaul, whereby, civil suit filed by the respondent No.1 was decreed in his favor and appeal filed by the appellants against judgment and decree dated 06.10.2004 was dismissed, respectively.

BRIEF FACTS OF THE CASE

2. Brief facts of the case as per the pleadings in the civil suit are that respondent No.1 was appointed as peon in Election Department on 21.12.1971. Previously, there were two cadres in Election Department i.e. (1) Head Office Cadre and (2) Field Cadre and both the cadres were



maintaining separate seniority list. Thereafter, the rules regulating the services of Class IV employees known as Haryana Election Department (Group D) Service Rules, 1997 were published in official gazette dated 03.06.1997. The two cadres were amalgamated and only one and joint seniority list of Class IV employees was ordered to be prepared. The joint tentative seniority list was prepared and circulated on 28.06.1999 but respondent No.1 came to know about it only on 20.09.1999. In that seniority list respondent No.1 was entered at serial No. 7, whereas name of juniors person i.e. respondent No.2 was placed above his name. Respondent No.1 moved representation on 30.09.1999, which was rejected. Further respondent No.2 was promoted to the post of photocopier vide order dated 24.12.1997. Respondent No.1 also requested the appellants to allow the promotion to the post of photocopier or the equivalent grade w.e.f. 24.12.1997 but the appellants pressurized respondent No.1 to write down to the effect that he does not accept the post of Jamadar that is why order posting him as Jamadar was withdrawn vide order dated 08.05.2000. Respondent No.1 filed civil suit on the above referred to grounds and further pleaded therein that post of photocopier is Class III post, whereas, post of respondent No.1 is Class IV post. The grievance of respondent No.1 is that ignoring his seniority, respondent No. 2 was promoted to the post of photocopier. The civil suit filed by him was decreed in his favor vide judgment and decree dated 06.10.2004 passed by Learned Civil Judge (Senior Division), Narnaul. Thereafter the appellants filed appeal against the same, which was dismissed vide judgment and decree dated 02.12.2006 passed by learned Additional District Judge, Narnaul. Hence the present appeal.

**SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:-**

3. Learned counsel for the appellants contends that both the Courts totally failed to appreciate the eligibility/qualification for promotion to the post of photocopier.

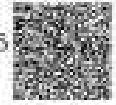
4. He further contends that respondent No.1 does not fulfill the qualification for promotion as on date also. Further that even at the time of framing of Rules, respondent No.1 was not eligible, whereas respondent No.2 was eligible. Further that at the time of filing of civil suit respondent No.2 was already confirmed. Further that civil suit was filed after three years of promotion, whereas, in promotion/seniority cases suit can be filed within six months. He, therefore, prays that present appeal be allowed.

5. Per contra, learned counsel for respondent No.1 contends that both the Courts have rightly decreed the civil suit in favour of respondent No.1 and dismissed the appeal filed by the appellants. He, therefore, prays that the present appeal be dismissed.

6. I have heard learned counsel for the parties and have perused the whole record of the case with their able assistance.

7. A perusal of file shows that there was no stay of both the judgments and decrees in the present regular second appeal and learned counsel for the appellants contends that respondent No.2 was not reverted. Both the learned counsel for the appellants as well as respondent No.1 contends that respondent No.1 and respondent No.2 have retired.

8. A perusal of the record shows that as per Service Rules, the person to be eligible for the post of Photocopier Operator should fulfill the following conditions:-



1. *One year experience as Daftri or Jamadar or 5 year experience as Peon or Chowkidar;*
2. *Middle with Hindi; and*
3. *Have the experience to operate photocopier machine not less than two years.*

9. A perusal of record further shows that respondent No.1 was 7th class pass, whereas, respondent No.2 was 8th class pass. Further respondent No.1 did not have any experience of operating the photocopier machine, whereas, respondent No.2 had almost two year experience. Further in the year 1993, additional charge of photocopier was given to respondent No.2 to operate photocopier machine and he was promoted in the year 1997, therefore, respondent No.2 was more qualified and fulfilled the eligibility for promotion to the post of Photocopier Operator. Therefore, both the Courts did not take into consideration the Rules applicable in case of the respondents while decreeing civil suit filed by respondent No.1 and dismissing appeal filed by the appellants.

Decision

10. In view of the above discussion, judgment and decree dated 06.10.2004 passed by learned Civil Judge (Senior Division), Narnaul as well as judgment and decree dated 02.12.2006 passed by learned Additional District Judge, Narnaul are set aside.

11. Accordingly, the present regular second appeal is **allowed**.

12. Decree sheet be prepared accordingly.

13. Pending miscellaneous applications, if any, are also disposed of.

29.04.2026

Ayub/Saahil

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*

(SUDEEPTI SHARMA)
JUDGE